

The Office has now clarified the Restriction Requirement (see paper number 10), which should have properly stated that Groups 1-6 are drawn to claims 1-10 in the following manner:

Group I: SEQ ID NO:3;

Group II: SEQ ID NO:4;

Group III: SEQ ID NO:5;

Group IV: SEQ ID NO:6;

Group V: SEQ ID NO:7; and

Group VI: SEQ ID NO:8.

Applicants elect, with traverse, Group II, Claims 1-10, for further prosecution.

With respect to Groups I-VI, above, the Office merely states its conclusion that these groups are independent and distinct and provides no reasons and/or examples to support restriction between these Groups. Accordingly, Applicants respectfully submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Further, MPEP §803 states as follows:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on its merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all claims would not constitute a serious burden on the Office.

Specifically, Applicants submit that no reasonable burden would be presented upon the Examiner for the following reason:

Of the amino acid sequences of SEQ ID NOs: 3-8, the amino acid sequences of SEQ ID NOs: 3-7 are highly homologous to one another. Amino acid sequences of SEQ ID NOs: 3-7 are related as follows:

SEQ ID NO: 3 : Asp-Ile-CORE-Lys

SEQ ID NO: 4 : Ile-CORE-Lys-Asp

SEQ ID NO: 5 : Asp-Ile-CORE-Lys-Asp

SEQ ID NO: 6 : Asp-Ile-CORE-Lys-Asp-Ala

SEQ ID NO: 7 : Ile-CORE-Lys-Asp-Ala

“CORE” represents a specific 54 amino acid stretch, which is identical in the amino acid sequences of SEQ ID NOs: 3-7.

Of the above-mentioned 57-59 amino acids long sequences of SEQ ID NOs: 3-7, 56 amino acids (Ile-CORE-Lys) are identical in each of these sequences. By virtue of this high degree of sequence identity the amino acid sequences of SEQ ID NOs: 3-7 also share significant structural similarity. Therefore, these sequences properly represent a Markush group that is sufficiently few in number and so closely related that a search and examination of the entire claim can be made without serious burden (see MPEP §803.02). As such, MPEP §803.02 *compels* the Office to examine all the members of the Markush group in the claim on the merits. Moreover, even if the Office chooses to revert to an Election of Species, Applicants submit that with the allowance of SEQ ID NO: 4, the amino acid sequences of SEQ ID NOs: 3 and 5-7 should also be examined on the merits.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

Applicants respectfully submit that the above-identified application is now in
condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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